

**REMARKS****I. Status of the Claims**

Claims 1-15 were pending in the application prior to this amendment. In this amendment, claims 1-13 have been amended. Claim 16 is new, and is now presented to the Examiner for consideration. No new matter has been introduced as a result of this Amendment.

**II. Rejections Under 35 U.S.C. §112, Second Paragraph**

Claims 5 and 11 stand rejected under 35 U.S.C. §112, Second Paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the Examiner asserts that the use of the term “and/or” renders the scope of the claims indefinite.

Applicants respectfully disagree with the Examiner’s contention. Section 2173.05(h) of the MPEP allows for the use of alternative expressions in a claim. The use of alternative expressions does not necessarily render the metes and bounds of a claim indiscernible. For example, in claim 5 the phrase, “size and/or form of the light beams” indicates that the size, the form or the size and form may be selected. Similarly for claim 11, the sensors may consist of sensors that monitor the vehicle itself, peripheral sensors or a combination of both.

In view of the above, Applicants believe that the 35 U.S.C. §112, Second Paragraph, rejection should be withdrawn.

**II. Rejections Under 35 U.S.C. §102 (b):**

Claims 1, 2, 4-12, 14 and 15 stand rejected under 35 U.S.C. §102 (b) as being anticipated by US 2002-0080617 A1 to Niwa et al. (hereafter, “Niwa”). More specifically, the Examiner contends that Niwa anticipates each and every limitation in the aforementioned claims.

Niwa is a system for controlling a lighting system within a vehicle. The Niwa system may take information from sensors within the vehicle, such as a steering wheel position sensor (Niwa, paragraph 0064) and information from a navigation system (Niwa, paragraph 0057) in order to determine how to control the lighting apparatus. A comparison is made based

on a reliability value to control using sensors, navigation, or a combination of both (Niwa, paragraph 0166-0168). Applicants respectfully disagree with the Examiner's assertion that Niwa anticipates the present invention, as claimed.

Claims 1-13 have been amended to more clearly recite the present invention. Claim 1, as amended, recites in part, "if the reliability rate is higher than the reliability threshold value, further comparing trajectory information derived from the vehicular information to trajectory information derived from the navigation data to determine a consistency level, the consistency level being utilized to decide whether to employ the vehicular trajectory information or navigation trajectory information in controlling the lighting apparatus." Niwa, as best understood, neither recites nor implies any further comparison, after the initial testing is completed regarding the reliability rate of the navigation data vs. the reliability threshold value, to ensure consistency between control commands formulated with respect to information provided by vehicular sensors vs. control commands formulated from navigation information. Support for this functionality may be found in the specification, for example, on pages 12 and 13, as well as in FIG 2.

In view of the above, at least claims 1 and 7 are distinguishable from the cited reference Niwa. Further, claims 2, 4-6, 8-12, 14 and 15 are also distinguishable due to their dependence on independent claims 1 and 7. As a result, Applicants respectfully believe that the 35 U.S.C. §102(b), rejection should be withdrawn.

### **III. Rejections Under 35 U.S.C. §103(a):**

Claim 3 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Niwa. More specifically, the Examiner asserts that claim 3 is obvious in view of Niwa and information known to one of ordinary skill in the art at the time the invention was made.

Initially, Claim 3 depends from claim 1, and therefore, claim 3 is distinguishable from Niwa for the same reasons stated with regard to claim 1 above. Further, the Examiner does not reference any support for the asserted obviousness, and cites the same motivation as recited in the present application. This motivation would be considered impermissible hindsight based on the disclosure, and as a result, Applicants believe that this rejection is improper under the

provisions set forth in 35 U.S.C. §103(a). The Examiner has failed to prove all the criteria required for sustaining a rejection for obviousness, and therefore it should be withdrawn.

Claim 13 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Niwa in view of U.S. 2002-0080618 A1 to Kobayashi (hereafter, "Kobayashi"). More specifically, the Examiner asserts that claim 13 is obvious in view of the combined teachings of Niwa and Kobayashi.

Claim 13 depends from claim 7, and therefore, claim 13 is distinguishable from the combination of Niwa and Kobayashi for the same reasons previously discussed with regard to claim 7, as amended, and the Niwa reference alone.

In view of the above, Applicants respectfully believe that the 35 U.S.C. §103(a) rejection to claim 13 should be withdrawn.

**CONCLUSION**

Based on the foregoing amendments and remarks, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims and allowance of the application.

**AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4503, Order No. 1232-5232. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4503, Order No. 1948-4824. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,  
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